CANCELLED

IN THE HIGH COURT OF JUDICATRE AT BILASPUR [C.G.]

WRIT PETITION NO. 2131 /2005

PETITIONERS POSSESSION HOLDERS

1. Rewati Bai Janghel, aged about 39 years, wife of Late Kriparam Janghel.

2. Rishi Janghel, aged about 21 years, son of Late KriparamJanghel

3. Ku. Mamta Janghel, aged about 18 years, daughter of Late Kriparam Janghel.

4. Jagdish Janghel, aged about 14 years, (Minor) so of Late Kriparam.

5. Ku. Manisha Janghel, aged about 12 years (Minor), daughter of Late Kriparam Janghel,

6. Maneesh Janghel, aged about 10 years, (minor) son of Late Kriparam Janghel.

7. Aashish Janghel, aged about 7 years six months (Minor) son of Late Kriparam Janghel.

Sl.NO. 4 to 7 are minors, through - their natural guardian mother Smt Rewati Bai Janghel, widow of Late Kriparam Janghel.

All are resident of Near Balaji Mandir, Des Baadi Aanand Nagar, Raipur, Tahsil and District Raipur (C.G.)

P.R. No. 237 dt. 5.12.05
Presented by Shri ... Adv.
dated 5-12-05

VERSUS

RESPONDENTS

1. Chandrabhan Kriplani, son of Geomal Kriplani, resident of Geetanjali Nagar, Raipur, Tahsil and District Raipur (Chhattisgarh). (Decree Holder)

2. Jairamdas Dengwani, son of Danamal Dengwani, resident of Anil Cloth Agency, Shop No. 41, through - Cloth Merchant, Pandri, Raipur (Chhattisgarh) (**SINCE DECEASED**)

2A Anil Kumar Dengwani, son of Late Jairamdas Dengwani, aged about 26 years, resident of Near Sindhu Bhawan Devendra Nagar, Raipur (**LEGAL HEIR**) (Judgment Debtor)

WRIT PETITION U/A. 227 OF THE CONSTITUTION OF INDIA

1] **PARTICULARS OF THE PETITIONER:-**

As given above in the cause title

XI-HC-22

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. 213/ **सन्** 2005

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

15-6-2005

Heard Mr. Malay Kumar Bhaduri, counsel for the petitioners.

The petitioners have preferred this writ petition under Article 227 of the Constitution of India, questioning the legality and correctness of the order dated 12-5-2005 passed by the 1st Additional Civil Judge, Class-1, Raipur, whereby the learned Additional Civil Judge rejected the application filed by the petitioners under Section 94 (5) read with Section 151 of the C.P.C.

Brief facts leading to filing of this writ petition are that respondent No.1 herein filed a civil suit, showing him as ~~a tenant~~ Land Lord, before the 1st Civil Judge, Class-1, for ejectment and arrears of rent against respondent No.2, which came to be registered as Civil Suit No.20-A/2002, that suit was decided and decreed on 20th December, 2002. A decree of ejectment against respondent No.2 was passed in respect of the land situated near Balaji Mandir shown in red and blue colours in the map annexed with the suit The suit was further decreed against respondent No.2 for payment of ~~monthly~~ rent of Rs.1,250/- and arrears of rent. No appeal was preferred by respondent No.2 against that, therefore, respondent No.1 moved execution application before the Additional Civil Judge for execution of the decree. When in order to execute the warrant of possession the Court Ballif reached on the spot, he found that the said judgment debtor namely Jairamdas Dengwani was not residing on the disputed land, but petitioner No.1 herein namely Rewati Bai Janghel, w/o Late Kriparam Janghel was found in possession and it was informed by the neighbourers that she is

(पी.)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.2131/ **सन्** 2005

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 3 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

~~and on that the learned executing Court ought to have enquired into the~~ possession of the petitioners herein in accordance with Order 21 Rule 97 and Order 21 Rule 101 of the C.P.C. On receiving such report, the executing Court was required to stay its hands and ask the decree holder to move an application under Order 21 Rule 97 of the C.P.C. for adjudication about the possession of the third person.

As prayed by learned counsel for the petitioners that the petitioners want to move appropriate forum for redressal of their grievances in accordance with law, the petitioners are at liberty to move the appropriate forum, in accordance with law.

With these observations the petition is disposed of in limine.

Consequently, M.(W.)P.No.1700/2005 & I.A.No.4111/2005 also stand disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C. Bhadoo
Judge

Soma

(पीछे देखिये)